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CHARLES MAIER

THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

In re:

PG&E CORPORATION,

- and -

PACIFIC GAS AND ELECTRIC  
COMPANY,

Debtors.

Federal I.D. No. 94-0742640  
Federal I.D. No. 94-3234914

CLAIM No. 1896

Bankruptcy Case  
No. 19-30088 (DM)

Chapter 11

Superior Court Case  
No.: 18CV01718

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
MOTION FOR RELIEF FROM THE  
AUTOMATIC STAY**

HEARING DATE  
DATE: MARCH 7, 2023  
TIME: 10:00 AM  
PLACE: 235 Pine Street, 22nd Floor  
San Francisco, CA

**I. INTRODUCTION**

The underlying matter relates to an easement over a portion of property owned by PG&E in Santa Cruz, California. The property in question is a vacant lot bordering on the Arana Substation on Bostwick Lane, Santa Cruz, California, 95062.

Charles Maier filed his action for private nuisance, injunction and declaratory relief on June 14, 2018 after PG&E determined to fence off the vacant lot in question.

1 Prior to the 2018 fencing, my Client and many other neighboring homes and businesses  
2 had made open, hostile, and regular use of the vacant lot, arising to an easement by  
3 prescription. Further, there is no evidence that this vacant lot was ever dedicated to a  
4 public use.

5 The parties in this matter conducted discovery and have both posed summary  
6 judgment motions before the Court. Those motions were set for hearing on March 28,  
7 2019, prior to the automatic stay that intervened before the motions could be heard.

8 Charles Maier moves for relief from the automatic stay on the grounds that relief  
9 from the stay would resolve Plaintiff Maier's dispute with Defendant PG&E, the  
10 resolution would not interfere with the bankruptcy case and would not adversely impact  
11 other creditors, and lifting the automatic stay to this claim would relieve the bankruptcy  
12 court of an additional creditor proceeding. Therefore, cause exists to grant relief from  
13 the automatic stay in PG&E's Chapter 11 bankruptcy as to Plaintiff Maier and allow the  
14 claim to proceed in the Santa Cruz Superior Court instead of this Court.

## 15 **II. FACTUAL SUMMARY**

### 16 **A. MOVING PARTY'S CLAIMS.**

17 Plaintiff Charles Maier has a simple prescriptive easement case, the facts of  
18 which are not in dispute. Plaintiff Charles Maier has been the owner of real property  
19 located on Seventh Avenue in the City of Santa Cruz since 2004. Defendant Pacific  
20 Gas and Electric Company has been the owner of real property located on Bostwick  
21 Lane in the City of Santa Cruz since the 1950s. The two properties share a common  
22 boundary.

23 Since Plaintiff became the owner of his property, he has regularly used a portion  
24 of Defendant's property for parking and access to his back yard. Such use has been  
25 continuous, in an open and notorious manner, under claim of right, for over five years.  
26 Defendant does not genuinely dispute the fact of Plaintiff's use of their property.

27 In or around 2016, PG&E responded to complaints from a neighbor about the  
28 continued use of the Easement Area. PG&E went through an internal process to

1 address this issue. During part of that process, Plaintiff requested that he be able to  
2 rent the Easement Area from PG&E, and be given access via a gate installed in the new  
3 fence. PG&E representatives even provided Plaintiff with a form which they completed,  
4 requesting a lease over the Easement Area. However, PG&E ultimately determined not  
5 to lease the Easement Area to Plaintiff. Rather, Defendant decided to fence off the  
6 Easement Area and prevent Plaintiff's use, as well as any public access to the  
7 Easement Area.

8 Plaintiff filed this action, seeking to confirm his right to use of the property.  
9 Discovery in this matter began in October 2018 with both sides serving discovery.  
10 Charles Maier was deposed on December 19, 2018 and Daniel Waters, an employee of  
11 PG&E was deposed on December 20, 2018. Defendant PG&E filed and served their  
12 Motion for Summary Judgment on January 10, 2018. Plaintiff Charles Maier filed and  
13 served his Motion for Summary Judgment on January 14, 2018. The motions were set  
14 to be heard on March 28, 2019.

#### 15 **B. BANKRUPTCY PROCEEDINGS.**

16 PG&E filed for bankruptcy on January 29, 2019. The bankruptcy filing has  
17 caused the court to continue this matter entirely. On March 27, 2019, Counsel for  
18 Charles Maier requested that PG&E stipulate to lift the automatic bankruptcy stay as it  
19 relates to this action and allow the action to proceed to judgment in Santa Cruz Superior  
20 Court. Counsel for PG&E never responded to said letter.

21 On June 14, 2019, Charles Mair filed his proof of claim. On June 25, 2021, the  
22 court issued an Order Disallowing and Expunging Charles Maier's proof of claim no.  
23 1896.

24 Debtor has estimated in its Order Disallowing and Expunging Proofs of Claim  
25 filed on June 25, 2021 that its total liability stemming from Charles Maier will be around  
26 \$100,000. (See Exhibit 1, page 1, of the Order.)

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1 **III. ARGUMENT**

2 **A. CAUSE EXISTS TO GRANT RELIEF FROM THE AUTOMATIC STAY**

3 In general, the bankruptcy court may grant relief where a requesting party  
4 demonstrates "cause" to lift the automatic stay:

5 (d) On request of a party in interest and after notice and a hearing, the court shall  
6 grant relief from the stay provided under subsection (a) of this section, such as  
7 by terminating, annulling, modifying, or conditioning such stay--

8 (1) for cause, including the lack of adequate protection of an interest in  
9 property of such party in interest;

10 11 U.S.C. §362(d)(1). Section 362(d)(1) includes "lack of adequate protection," but "lack  
11 of adequate protection" is not the exclusive ground for finding "cause." (*In re Elmore*,  
12 94 B.R. 670, 678 (B.C. C.D. C.A. 1988).) The term "cause" is not defined within Section  
13 362 nor the legislative history. (*In re Touloumis*, 170 B.R. 825 (S.D. N.Y. 1994).)

14 "Cause" is an intentionally broad and flexible concept to be determined on a  
15 case-by-case basis. (*In re Brown*, 311 B.R. 409, 412-13 (E.D. P.A. 2004).) Whether  
16 "cause" exists is determined on a case by case basis and has been found in  
17 circumstances where the interests of justice and judicial economy weigh in favor of the  
18 liquidation of state law claims against a debtor in a state forum and not in the  
19 Bankruptcy Court. (See *In re Castlerock Properties*, 781 F.2d 159, 163 (9th Cir. 1986).)

20 In determining whether the stay should be modified or terminated for cause,  
21 courts generally (1) analyze twelve factors enumerated in *In re Sonnax Industries, Inc.*,  
22 907 F.2d 1280 (1990); (2) engage in fact-intensive inquiries which are loosely based on  
23 the Sonnax factors; or (3) both. (See *In re Bison Res., Inc.*, 230 B.R. 611, 613 (N.D.  
24 O.K. 1999).) The *Sonnax* factors are as follows:

- 25 (1) whether relief would result in a partial or complete resolution of the issues;  
26 (2) lack of any connection with or interference with the bankruptcy case;  
27 (3) whether the other proceeding involves the debtor as a fiduciary;

1 (4) whether a specialized tribunal with the necessary expertise has been  
2 established to hear the cause of action;  
3 (5) whether the debtor's insurer has assumed full responsibility for defending it;  
4 (6) whether the action primarily involves third parties;  
5 (7) whether litigation in another forum would prejudice the interests of other  
6 creditors;  
7 (8) whether the judgment claim arising from the other action is subject to  
8 equitable subordination;  
9 (9) whether movant's success in the other proceeding would result in a judicial  
10 lien avoidable by the debtor;  
11 (10) the interests of judicial economy and the expeditious and economical  
12 resolution of litigation;  
13 (11) whether the parties are ready for trial in the other proceeding; and  
14 (12) impact of the stay on the parties and the balance of harms.  
15 (*Id.* at 1286.) The *Sonnax* court made a determination by placing emphasis on the most  
16 applicable factors in that case. (*Id.* at 1287-89.)

17 Application of the relevant *Sonnax* factors weigh in favor of granting relief from  
18 the stay.

19 **I. RELIEF WOULD RESULT IN COMPLETE RESOLUTION OF THE ISSUES.**

20 The underlying case is simple prescriptive easement case that would be  
21 completely resolved by allowing the case to proceed in Santa Cruz Superior Court.  
22 Plaintiff Maier has sought declaratory relief, injunctive relief, and has asserted a cause  
23 of action for private nuisance, which will be definitively resolved by determination in the  
24 Santa Cruz Superior Court.

25 **II. RELIEF WOULD NOT INTERFERE WITH THE BANKRUPTCY CASE.**

26 Proceeding with the underlying prescriptive easement case in the Santa Cruz  
27 Superior Court will not prejudice the interests of other creditors because Movant now is  
28

1 not seeking monetary relief. Movant is seeking merely to continue using the property  
2 pursuant to their prescriptive easement with a judgment indicating as such.

3 **III. FINANCIAL BURDEN TO DEFENDANT FROM STAY.**

4 There will be no additional significant financial burden on Debtor caused by  
5 allowing the matters to be litigated in the Santa Cruz Superior Court. The property in  
6 question is located in Santa Cruz, CA. Moreover, Debtor has counsel that has been  
7 participating in the Santa Cruz litigation following the commencement of its case. The  
8 parties in this matter conducted discovery and have both posed summary judgment  
9 motions before the Santa Cruz court. Those motions were set for hearing on March 28,  
10 2019, prior to the automatic stay that intervened before the motions could be heard.  
11 Accordingly, there is no additional financial burden imposed on the Debtor by allowing  
12 the state court action to proceed.

13 **IV. PROGRESS OF LITIGATION IN STATE FORUM INVOLVING**  
14 **EXCLUSIVELY STATE LAW ISSUES.**

15 Plaintiff Maier brought suit against Defendant PG&E on or about June 14, 2018.  
16 Defendant PG&E filed for bankruptcy over a year and a half later on or about January  
17 29, 2019. Defendant PG&E has not filed for bankruptcy because of Plaintiff Maier's civil  
18 complaint. The civil complaint filed in the Santa Cruz Superior Court had already notably  
19 progressed, with the parties conducting discovery and a motion for summary judgment  
20 pending resolution of the bankruptcy court's automatic stay.

21 The property at the heart of this dispute is situated in Santa Cruz County in the  
22 State of California. As such, the causes of action will be decided by California law. In  
23 this dispute Plaintiff Maier has sought declaratory relief, injunctive relief, and has  
24 asserted a cause of action for private nuisance. Since state law governs the  
25 interpretation of these causes of action the state court and bankruptcy court will reach  
26 the same conclusion.

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1                   **V. JUDICIAL ECONOMY WEIGHS IN FAVOR OF RELIEF FROM STAY.**


2                   Justice would be best served by having the parties litigate in the pending civil  
3 action in the Santa Cruz Superior Court. As stated above, this case solely involves  
4 state law and has progressed to the point of motions for summary judgment. The  
5 presiding judge in the Santa Cruz Court is familiar with the facts of this case and cases  
6 similar. Trying this matter in Bankruptcy Court or District Court would not further judicial  
7 economy in that a new judge would have to become familiar with these state law issues  
8 and it is likely that the trial of the case would be delayed for a lengthy period of time.  
9 Charles Maier is seeking non-monetary relief in the underlying case which would not  
10 interfere with the bankruptcy case if it proceeded in Santa Cruz Superior Court.

11                   **IV. CONCLUSION**

12                   An evaluation of Plaintiff Maier's claims against Debtor in view of the factors set  
13 forth above and a balancing of the hardships weighs heavily in favor of granting relief  
14 from stay. Relief from the automatic stay would completely resolve Plaintiff Maier's  
15 dispute with Defendant PG&E. Resolution of Plaintiff Maier's complaint would not  
16 interfere with the bankruptcy case and would not adversely impact other creditors.  
17 PG&E is engaged in a highly complex Chapter 11 Bankruptcy and lifting the automatic  
18 stay as to Plaintiff Maier would relieve the bankruptcy court of an additional creditor  
19 proceeding. Last, deferring this matter to the Santa Cruz Superior Court would not  
20 impose any financial hardship on Defendant PG&E.

21                   Therefore, cause exists to grant relief from the automatic stay in PG&E's Chapter  
22 11 bankruptcy as to Plaintiff Maier and to allow the case to proceed in the Santa Cruz  
23 Superior Court.

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26                   Dated: February 14, 2023

  
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By: Emily Humy, Esq.  
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